

POLICY TITLE	SURFACE WATER QUALITY MANAGEMENT - DEVIATION FROM POLICY TWO	NO. 15-02-01
<u>Legislative Authority</u> the Ontario Water Resources Act		
<u>Statement of Principles</u> This policy elaborates the Ministry of the Environment's practice concerning deviations from Surface Water Quality Management Policy 2 as described in Water Management - Goals, Policies, Objectives and Implementation Procedures of the Ministry of the Environment, November 1978 (revised May 1984), p.14 and in Policy No. 15-01 of this Manual.		
<u>Definitions</u>		
<u>Deviations</u>	"Deviation" from Policy 2 refers to instances where, in areas with water quality not meeting Provincial Water Quality Objectives (PWQO), it is not possible, for reasons specified in Section 2.1 below, to prevent further degradation of existing water quality.	
November 12, 1986		
<u>Point of Contact</u>	Director, Water Resources Branch	
<u>Effective Date</u>	March 1980	

1. Surface Water Quality Management - Policy Two

1.1 Areas With Water Quality Not Meeting The Objectives

Water quality which presently does not meet the Provincial Water Quality Objectives shall not be degraded further and all practical measures shall be taken to upgrade the water quality to the Objectives.

1.2 Evaluation And Remedial Measures

Evaluations of existing conditions in problem areas shall be conducted and remedial measures shall be taken to upgrade water quality to the PWQO as stipulated under PWQO Policy 3.

1.3 New or Expanded Discharges

The Ministry will require that all reasonable and practical measures be taken to reduce waste loadings. Where new or expanded discharges are proposed, no further degradation will be permitted and all practical measures shall be undertaken to upgrade water quality.

2. Deviations from Policy Two

2.1 Conditions

In exceptional cases where it is clearly demonstrated that all reasonable and practical measures to attain Provincial Water Quality Objectives have been undertaken but where:

- (a) the Provincial Water Quality Objectives are not attainable because of natural background water quality; or
- (b) the PWQO are not attainable because of irreversible man-induced conditions; or
- (c) to attain or maintain the PWQO would result in substantial and widespread adverse economic and social impact; or
- (d) suitable treatment techniques are not available;

then deviations may be allowed, subject to the approval of the Director, Water Resources Branch, in consultation with the Regional Director. Where public hearings into proposals for new or expanded discharges are held under Sections 7 or 11 of the Environmental Assessment Act or Sections 25 and 26 of the OWR Act, such hearings may be utilized to consider this issue.

3. Interpretation

A deviation from Policy 2 is required if the discharge will contain one or more of the parameters which have led to the Policy 2 designation, and all practical pollution abatement measures will not prevent further degradation in water quality.

3.1 Application Of a Deviation

Policy 2 and the deviation clause will be applied on a parameter-by-parameter basis. If a parameter A violates the PWQO in a given waterbody, then Policy 2 will apply to this parameter.

3.1.1 Proposed Facilities

As an example of another aspect of this interpretation, consider a proposed facility which will discharge to a waterbody where parameters A, B, and C violate the PWQO. If the treated effluent from the new facility will not contain or affect substances A, B, or C, no deviation will be required.

3.1.2 Reason For Deviation

A deviation is granted because the combined effect of the proponent's discharge and upstream (natural or man-made) polluting sources results in violation of one or more of the PWQO.

4. Consequences of Deviation

4.1 Water Quality Evaluation

Granting of a deviation by the Director, Water Resources Branch shall not be construed as permission to maintain unsatisfactory water quality. Approval of a deviation must lead to an extensive water quality evaluation which will:

- (a) identify the upstream sources of pollution resulting in the PWQO violation;
- (b) evaluate methods of eliminating or effectively reducing the impact of the polluting source(s);
- (c) develop and implement a remedial measures plan.

4.2 Timing of Evaluation

The measures in 4.1 should be carried out ideally at the time of evaluation of the proposed discharge, or at least within a credible time period (about five years) following the granting of the deviation.

4.3 Role of Regional Staff

Regional staff will provide the Water Resources Branch with a copy of receiving water assessments carried out by regional staff for dealing with discharges to water bodies where Policy 2 applies. This will:

- (a) permit an evaluation of whether the current interpretation of the deviation clause is, in fact, the most appropriate approach, or if other possibilities should be considered;
- (b) enable Water Resources Branch staff to act as a clearing house in advising regions of innovative approaches to similar situations encountered in other regions;
- (c) facilitate the provision of technical and policy assistance by Water Resources Branch staff;
- (d) promote the equitable application of policy.